

REMARKS

This amendment is responsive to the Office Action mailed May 14, 2008. Reconsideration and allowance of claims 1 and 3-15 are requested.

The Status of the Claims

Claims 1, 2, 4-7, and 14 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Suzuki, U.S. Publ. Appl. No. 2003/0123603 A1 (hereinafter "Suzuki").

Claims 3, 8, 9, 12, and 13 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Suzuki in view of Banks et al., U.S. Pat. No. 6,603,494 (hereinafter "Banks").

Applicants note that claim 2, although listed as rejected, is no longer pending in the application.

Claims 10 and 11 are listed as rejected in the Office Action Summary, but are not indicated as being covered by either the § 102(b) or § 103(a) rejections.

The Claims Present Patentable Subject Matter and Should be Allowed

During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. MPEP § 2111. However, the broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *Id.*

Claim 1 does not recite "autonomously ordering" in a vacuum. Rather, it recites a scheduler module which generates an ordered selection of operational items, the scheduler module autonomously ordering the operational items based on respective parameter settings of the operational items. Read in its entirety, it is respectfully submitted that claim 1 makes it unambiguously clear that the claim term "autonomously ordering" relates to arranging, i.e. ordering, the order of operations, and not to "issuing a command or instruction".

In construing claim terms, the general meanings gleaned from reference sources, such as dictionaries, must always be compared against the use of the terms in context, and the intrinsic record must always be consulted to identify which of the

different possible dictionary meanings is most consistent with the use of the words by the inventor. MPEP § 2111.01 (*citing Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338 (Fed. Cir. 2003)).

In the present instance, the Office cites an Internet dictionary definition provided at: <http://dictionary.reference.com/browse/order> and draws from that website the definition "to issue a command or instruction to". However, this website lists nine different possible definitions for "order" when used as a verb, namely:

-verb (used with object)

37. to give an order, direction, or command to: The infantry divisions were ordered to advance.
38. to direct or command to go or come as specified: to order a person out of one's house.
39. to prescribe: The doctor ordered rest for the patient.
40. to direct to be made, supplied, or furnished: to order a copy of a book.
41. to regulate, conduct, or manage: to order one's life for greater leisure.
42. to arrange methodically or suitably: to order chessmen for a game.
43. Mathematics. to arrange (the elements of a set) so that if one element precedes another, it cannot be preceded by the other or by elements that the other precedes.
44. to ordain, as God or fate does.
45. to invest with clerical rank or authority.

<http://dictionary.reference.com/browse/order> (last accessed August 5, 2008).

This multiplicity of definitions is precisely why the MPEP cautions that any dictionary definition must be compared against the use of the terms in context, and against the intrinsic record. MPEP § 2111.01. It is respectfully submitted that, in doing so, the skilled artisan would not reach the construction "to issue a command or instruction to". Such a construction would ignore the connection of "autonomously order" with its object "the operational items" which claim 1 specifies are "an ordered selection of operational items."

The Office Action rejects claim 1 based on its construction of "autonomously ordered" as encompassing "to issue a command or instruction to." Applicants respectfully submit that this is not a correct construction, but rather that "autonomously ordering" relates to arrangement, i.e. ordering, of the ordered selection of operational items. This construction, by the way, is consonant with the definition

"to arrange methodically or suitably: to order chessmen for a game" which is definition #42 listed at <http://dictionary.reference.com/browse/order>.

The Office, in its response to arguments at pages 3-4, does not assert that Suzuki would anticipate claim 1 under the construction urged herein (and urged in the last Office Action). In accord with this, it is respectfully submitted herein that the Office' anticipation rejection of claim 1 cannot stand if the term "autonomously ordered" is construed as relating to arrangement or ordering of the ordered selection of operational items. Accordingly, Applicants urge the Office to properly construe the term "autonomously ordering" in claim 1 and to allow claims 1-7, 10, 14, and 15.

Claim 6 has been amended for clarification to recite a user interface ... including a scheduler module which generates an ordered selection of operational items, the ordering of the ordered selection of operational items being autonomously ordered by the scheduler module based on parameter settings of the operational items. It is hoped that this amendment clarifies, beyond any possible doubt, the proper construction of "autonomously ordered" in claim 6. The rejection of claim 6 is based on the Office' construction of "autonomously ordered" as "to issue a command or instruction to." This construction being wholly inconsistent with the clarifying amendment made herein, Applicants respectfully request withdrawal of the § 103 rejection of claim 6, and allowance of claims 6 and 11-13.

Claim 15 is a new claim depending from claim 1. Claim 15 recites that the scheduler module autonomously orders the operational items by arranging the operational items in said ordered selection of operational items based on respective parameter settings of the operational items. This claim is supported at least at page 3 lines 25-27. Applicants believe, as explained above, that the skilled artisan would find the term "autonomously ordering" in claim 1 to be unambiguous and to exclude the Office' construction of "to issue a command or instruction to" based on the context of the claim and the relevant disclosure in the specification. If, however, the Office maintains its anticipation rejection of claim 1, Applicants urge the Office consider and allow claim 15 which provides still further clarification of this claim term.

Claim 9 was *substantively amended* in Applicants' previous Amendment B, and the substantive amendments were extensively argued in previous Amendment B.

The current Office Action maintains the rejection of claim 9 based on the proposed combination of Suzuki and Banks, stating that the rejections of the previous Office Action have been "maintained". The current Office Action does not address Applicants' substantive amendments of claim 9.

Respectfully, this does not meet the minimal requirements for rejecting a claim under § 103(a). The key to supporting any rejection under § 103(a) is the clear articulation of *why* the claim would have been obvious. MPEP § 2142. The analysis should be made explicit. *Id.* Rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Id.*

It is respectfully submitted that the Office Action is non-responsive to Applicants' presentation of *substantively amended* claim 9 and extensive arguments pertaining to *substantively amended* claim 9 set forth in previous Amendment B. Accordingly, Applicants do not amend claim 9 herein, and copy the arguments pertaining to claim 9 from previous Amendment B, and respectfully request that the Office examine amended claim 9 and Applicants' remarks pertaining thereto and respond to these amendments and remarks in the forthcoming Office Action.

Applicants urge the Office to allow claims 9, 3, and 8. However, if the forthcoming Office Action instead sets forth a complete § 103(a) rejection including a clear articulation of why *substantively amended* claim 9 would be obvious, Applicants request that the forthcoming Office Action be made non-final so as to provide a fair opportunity for Applicants to address the rejection (which has not heretofore been applied by the Office) by amendment and/or argument.

The following is copied from Applicants' previous Amendment B:

Claim 9 relates to a magnetic resonance imaging system, and has been amended to clarify that the various imaging positions are more particularly imaging stations. This amendment is supported in the original specification at least at page 5 lines 31-33. A "station" denotes a stationary position, as illustrated in the present application by the six illustrative stations of Fig. 4 corresponding to the patient's head, shoulders, abdomen, upper legs, lower legs, and feet. *See* present application at page 9

lines 10-12. Claim 9 relates to certain magnetic resonance embodiments disclosed in the present application as follows:

[T]he patient support is a patient table that is moveable to respective imaging positions, also called 'stations', where different parts of the patient's anatomy can be imaged. According to a further aspect of the invention at individual stations several image acquisition sequences are carried out. Notably, all image acquisition sequences that the operator has specified are carried out at a current station and the patient is moved to the next station when all image acquisition sequences for the current station have been completed. Hence, the displacements of the patient support with the patient remains limited to a small number.

Present application at page 5 line 31-page 6 line 4.

Claim 9 recites a control system set up to displace the patient support among various imaging stations and conduct several different magnetic resonance imaging sequences at individual imaging stations such that the different magnetic resonance imaging sequences at each individual imaging station share the same geometry, the control system grouping all image acquisition sequences to be performed at each individual station together and performing all image acquisition sequences to be performed at each individual station together before the patient support is moved to a next station of the various imaging stations.

The Office Action rejects claim 9 as allegedly obvious in view of the proposed combination of Suzuki and Banks. Suzuki ¶[0067] is cited as disclosing controlling the gantry and bed to perform the schedule one by one. However, there is no suggestion that any schedule item is performed at a station – to the contrary, Suzuki relates to computed tomography which, at least in the helical approach, employs continuous bed motion in conjunction with x-ray tube revolution to produce a helical spiraling of the x-ray tube around the subject. There is no identifiable individual imaging station in helical acquisition.

Moreover, the Office Action acknowledges at page 7 that Suzuki is unrelated to magnetic resonance imaging systems, and cites Banks in an attempt to remedy this deficiency. This combination relies upon Suzuki disclosing conducting different magnetic resonance imaging sequences at an individual imaging station, which however is not suggested by Suzuki.

Still further, the Office Action cites Banks Fig. 2 as graphically disclosing acquiring different magnetic resonance imaging sequences such that the different magnetic resonance imaging sequences at individual imaging position share the same geometry. This is not what Fig. 2 shows. Rather, Fig. 2 shows a position image table (202) which stores graphical representations, or icons, of different patient positions. The data table (200) includes position index values in the fourth column (210) so that for each required image the appropriate patient position icon can be retrieved from the position image table (202) and displayed. There is no suggestion that the ordering of acquisition of the required images be selected to group together common geometries. As an additional point, it should be noted that the different patient positions of Fig. 2 appear to relate to the patient, and not to the patient support. The horizontal line representing the patient support in these icons appears to be in the same position in every illustrated icon. In contrast, claim 9 recites a control system set up to displace the patient support among various imaging stations.

More generally, neither Suzuki, nor Banks, nor their combination, disclose or fairly suggest a control system grouping all image acquisition sequences to be performed at each individual station together and performing all image acquisition sequences to be performed at each individual station together before the patient support is moved to a next station of the various imaging stations. Suzuki at most discloses imaging at different positions of the patient bed, and more reasonably is read to disclose imaging at different displacement intervals of continuous motion of the patient bed. There is no suggestion of grouping acquisitions and performing all acquisitions at each individual station together before the patient support is moved to a next station. Banks discloses that different images may be acquired with the patient in different positions, but again does not disclose or fairly suggest performing all acquisitions at each individual station together before the patient support is moved to a next station.

For at least the foregoing reasons, it is respectfully submitted that claims 3, 8, and 9 distinguish patentably over the references of record. Accordingly, Applicants respectfully request allowance of claims 3, 8, and 9.

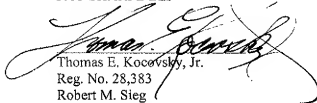
CONCLUSION

For the reasons set forth above, it is respectfully submitted that claims 1 and 3-15 distinguish patentably over the references of record and meet all statutory requirements. An early allowance of all claims is requested.

In the event that personal contact is deemed advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned at (216) 861-5582.

Respectfully submitted,

FAY SHARPE LLP

A large, stylized handwritten signature in dark ink, likely belonging to Thomas E. Kocovsky, Jr., is written over the printed name and registration number.

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